

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Delanie Ross,)
Petitioner,) No. CV-08-0079-PHX-PGR (HCE)
vs.)
Joseph Arpaio,) ORDER
Respondent.)

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Estrada notwithstanding that no party has filed any objections to the Report and Recommendation, the Court finds that the Magistrate Judge correctly concluded that the petitioner's Petition for Writ of Habeas Corpus, filed pursuant to 28 U.S.C. § 2241, should be dismissed.

First, the Court agrees with the Magistrate Judge that the petition, wherein the petitioner seeks pretrial habeas relief for an alleged violation of his speedy trial rights, is moot inasmuch as the relief apparently sought by the petitioner, *i.e.*, to be brought to trial, is no longer possible inasmuch as the petitioner was subsequently tried and convicted in November, 2008 and his direct appeal of that conviction is currently pending in the state court system.

Second, the Court also agrees with the Magistrate Judge that the

1 petitioner's Motion to Amend Petition for Writ of Habeas Corpus (doc. #20),
2 wherein the petitioner seeks to amend his petition in light of his conviction to seek
3 the dismissal of his state charges on speedy trial grounds, should be denied as
4 premature because the petitioner may only seek such relief through a petition
5 filed pursuant to 28 U.S.C. § 2254 after he has exhausted his state remedies.

6 Therefore,

7 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
8 (doc. #26) is accepted and adopted by the Court.

9 IT IS FURTHER ORDERED that the petitioner's Motion to Amend Petition
10 for Writ of Habeas Corpus (doc. #20) is denied.

11 IT IS FURTHER ORDERED that the petitioner's Petition for Writ of Habeas
12 Corpus, filed pursuant to 28 U.S.C. § 2241, is denied and that this action is
13 dismissed. The Clerk of the Court shall enter judgment accordingly.

14 DATED this 23rd day of November, 2009.

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18 Paul G. Rosenblatt
19 United States District Judge
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